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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,980	08/15/2006	Jorn Borgert	DE040046	8813
24737 7590 07/22/2011 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
GUPTA, VANI				
ART UNIT		PAPER NUMBER		
3777				
NOTIFICATION DATE		DELIVERY MODE		
07/22/2011		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/597,980

**Applicant(s)**

BORGERT ET AL.

**Examiner**

VANI GUPTA

**Art Unit**

3777

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 July 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-9 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 15, 2010 has been entered.

### *Claim Rejections - 35 USC § 103*

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. **Claims 1, 2, 4 – 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khan et al. (US 2004/0171934 A1) in view of Gordon (US 5,938,645).**

**Regarding claim 1**, Khan discloses a catheter system, comprising: a first catheter element (“catheter”) at least a first active localizer corresponding to a portion of the first catheter element, the first active localizer indicating a spatial position of the portion of the first catheter element; a second catheter element (“guidewire”) with at least a second active localizer corresponding to a portion of the second catheter element, the second active localizer indicating a spatial position of the portion of the second catheter element; and wherein the first and the second active localizers simultaneously indicate the spatial positions of the portions of the first and second catheter elements; wherein the first and the second catheter element are slidably coupled (Abstract; [0005], [0008], [0021], [0022 – 0024], [0026], [0029], [0032]).

However, Khan differs from Claim 1 in that Khan does not specifically suggest a fixing device for fixing a position of at least one of the catheter elements in a surrounding vessel.

Nonetheless, Gordon suggests that a catheter in a catheter-guidewire arrangement may contain a fixing device for fixing a position of at least one of the catheter elements in a surrounding vessel (col. 6, ll. 2 – 4).

Accordingly, it would be obvious to one of ordinary skill in the art, having the teachings of Khan and Gordon before one at the time the invention was made, to modify the dual-catheter element with localizers arrangement of Kahn with the fixing device of Gordon to fixate the device into place as would be known in the art.

***Regarding Claim 4,*** Khan suggests that at least one of the localizers is capable of being a magnetic field sensor in an external magnetic field for determining the spatial position (see rejection of Claim 1).

***Regarding Claim 5,*** Khan suggests that at least one of the localizers contains a source for electromagnetic or acoustic radiation (see rejection of Claim 1).

***Regarding claims 6 and 11,*** Khan suggests that the localizers may be placed less than 10 cm and/or less than 5 cm from each other during the use of the catheter system (paragraph [0029]).

***Regarding claims 7 and 8,*** Khan suggests a method for navigation of a catheter system in a vascular system, wherein the catheter system contains a first and a second catheter element, which are coupled to each other such that they can slide with respect to each other and carry at least a first or second active localizer respectively; and determining a spatial position of the first active localizer relative to the vascular system; and determining a spatial position of the second

active localizer relative to the spatial position of the first active localizer, wherein the determining steps are performed substantially simultaneously (see rejection of claims 1 – 3).

*Regarding claim 9*, Khan suggests the spatial position of the first active localizer relative to the vascular system is determined based on an image of the vascular system (paragraph [0008], [0032]).

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 2, 4 – 9, and 11 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANI GUPTA whose telephone number is (571)270-5042. The examiner can normally be reached on Monday - Thursday (8:30 am - 6:00 pm; EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert (Tse) Chen can be reached on 571-272-3672. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. G./  
Examiner, Art Unit 3777

/Tse Chen/  
Supervisory Patent Examiner, Art Unit 3777